

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA

RED BARN MOTORS, INC.,	*	
DONALD B. RICHARDSON, AND	*	CIVIL ACTION No.: 3:13-cv-00778-BAJ-RLB
BARBARA A. RICHARDSON	*	
	*	
VERSUS	*	
	*	
NEXTGEAR CAPITAL, INC.	*	
AS SUCCESSOR-IN-INTEREST TO	*	
DEALER SERVICES CORPORATION,	*	
LOUISIANA'S FIRST CHOICE	*	
AUTO AUCTION, L.L.C.	*	
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**MOTION FOR LEAVE TO FILE REPLY MEMORANDUM BY NEXTGEAR CAPITAL,  
INC. TO PLAINTIFFS' MEMORANDUM IN OPPOSITION OF THE  
MOTION TO DISMISS**

NextGear Capital, Inc., f/k/a Dealer Services Corporation, successor by merger with Manheim Automotive Financial Services, (incorrectly named defendant as NextGear Capital, Inc., as successor-in-interest to Dealer Services Corporation) (hereinafter "NextGear"), appearing herein through undersigned counsel, hereby moves for leave to file a reply to Plaintiffs' Memorandum in Opposition of the Motion to Dismiss ("Opposition").

After reviewing the Opposition, NextGear believes a reply memorandum is necessary. The purpose of the reply memorandum is to address a number of erroneous contentions and misinterpretations of the law by Plaintiffs in their Opposition (R.Doc. 15), in an effort to assist the Court in its consideration on the motion to dismiss.

NextGear's reply memorandum addresses the following issues:

1. Ms. Richardson lacks standing because she only alleges a hypothetical injury.

2. Red Barn lacks standing, because this cause of action was not specifically and unequivocally reserved in its reorganization plan. A reservation in the disclosure statement does not suffice.
3. *Nunc pro tunc* relief is not absolute. Only in extraordinary circumstances may such relief be granted which are not present here. When a cause of action is not reserved in the plan of reorganization and counsel is aware of the need to obtain prior authority to retain counsel and so acknowledged that requirement, there are no extraordinary circumstances. In an effort to assist the Court, NextGear respectfully requests that the Court grant its motion for leave to file a reply memorandum.

Respectfully submitted,

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s/ Robin B. Cheatham

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*Attorneys for NextGear Capital, Inc.*

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 19th day of March 2014 served a copy of the foregoing on all counsel of record via electronic service by the court's CM/ECF system. Notice

of this filing will be sent to all counsel of record by operation of the Court's electronic filing system.

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/s/Robin B. Cheatham

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**ORDER**

Considering NextGear Capital, Inc.'s ("NextGear") Motion for Leave to file the Reply Memorandum to Plaintiffs' Memorandum in Opposition of the Motion to Dismiss,

IT IS HEREBY ORDERED that NextGear's Motion for Leave is GRANTED and that NextGear Capital Inc.'s Reply Memorandum to Plaintiffs' Memorandum in Opposition of the Motion to Dismiss be filed accordingly.

Baton Rouge, Louisiana, this \_\_\_\_ day of March, 2014.

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UNITED STATES DISTRICT JUDGE